



Docket No.: T2317-907720

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Larry E. Mashburn et al. : Confirmation No. 5374
Serial No.: 10/059,278 : Art Unit: 1771
Filed: January 31, 2002 : Examiner: C. Juska
For: CARPET BACKINGS PREPARED FROM
VEGETABLE OIL BASED POLYURETHANE : Customer No. 000181

SUBMISSION

Mail Stop Fee 313(c)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants submit with their Request for Continuing Examination the attached Declaration Under 37 CFR 1.131. The Declaration Under 37 CFR 1.131 refers to a Declaration by Thomas Kurth, a co-inventor named in a reference relied upon by the Examiner to reject the claims of the present application, namely, US 2002/0090488. In that Declaration, Kurth declares (1) that he is not a co-inventor of most of the subject matter contained in the said reference and (2) that the inventors named in the present application conceived of and invented the subject matter of the claims rejected herein.

Inasmuch as the inventorship of the US 2002/0090488 application is fatally defective, the said application is not entitled to the earlier filing dates recited therein and can only qualify as a prior art publication with an effective date of July 11, 2002, i.e., the publication date thereof.

The Declaration Under 37 CFR 1.131 sets forth the required evidence that unequivocally establishes a reduction to practice of the claimed invention prior to July 11, 2002, thereby antedating the reference.

It is respectfully requested, therefore, that all rejections of record based on US2002/0090488 be withdrawn.

It is further requested that the Declaration of Thomas Kurth, which bears the heading of the reference application be made of record in said application by the Examiner. Applicants herein are prevented by the provisions of 37 CFR 1.99 from submitting the Declaration of Kurth themselves to the Examiner of said application. Since the Kurth Declaration greatly impacts the patentability of the claims in the Kurth application, it should be made of record therein to permit the Examiner thereof to consider that impact.

Respectfully submitted,

Miles & Stockbridge P.C.


Dennis P. Clarke
Registration No. 22,549

Date: November 22, 2005

1751 Pinnacle Drive
Suite 500
McLean, VA 22102-3833
Tel: (703) 903-9000
Fax: (703) 610-8686